

EXHIBIT 1



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

December 5, 2008

MORTGAGEE LETTER 2008-38

TO: ALL APPROVED MORTGAGEES

ATTENTION: SINGLE FAMILY SERVICING MANAGERS

SUBJECT: Home Equity Conversion Mortgages (HECMs) – Clarification regarding borrower's recourse for repayment of HECM loan debt and termination of a HECM mortgage

The purpose of this Mortgagee Letter is to provide a policy clarification regarding the requirements for repayment of Home Equity Conversion Mortgages (HECMs) and for termination of a HECM mortgage.

Specifically, HUD Handbook 4235.1 REV-1, Home Equity Conversion Mortgages, provides in Paragraph 1-3C, that:

The HECM is a "non-recourse loan". This means that the HECM borrower (or his or her estate) will never owe more than the loan balance or value of the property, whichever is less; and no assets other than the home must be used to repay the debt.

Some program participants mistakenly infer from this language that a borrower (or the borrower's estate) could pay off the loan balance of a HECM for the lesser of the mortgage balance or the appraised value of the property while retaining ownership of the home. This is not correct and is not the intended meaning of the quoted provision. Non-recourse means simply that if the borrower (or estate) does not pay the balance when due, the mortgagee's remedy is limited to foreclosure and the borrower will not be personally liable for any deficiency resulting from the foreclosure. (For additional guidance please reference 24 CFR 206.27(b) (8)).

Most situations regarding the termination of a HECM mortgage fall into the following general categories:

1. If the mortgage is not due and payable, and the borrower desires to retain ownership of the property, the mortgage debt may be repaid in full at any time.

2. If the mortgage is due and payable and the borrower (or estate) desires to retain ownership of the property, the mortgage debt must be repaid in full. Lenders may assist the borrower (or estate) in obtaining other financing to pay off the HECM loan in full.
3. Whether or not the mortgage is due and payable the borrower may, at any time, sell the property for at least the lesser of the mortgage debt or the appraised value.
4. If the mortgage is due and payable and the borrower (or estate) will not be retaining ownership of the property, the property may be sold for at least the lesser of the unpaid mortgage balance or 95% of appraised value.

In any circumstance where a mortgagee agrees to the acceptance of less than the full mortgage balance, such sale of the property by the borrower (or the borrower's estate) should be an arm's length transaction. An arm's length transaction is characterized by the following (1) the absence of a relation between the buyer and seller; (2) a selling price and other conditions that would prevail in an open market environment; (3) transaction costs paid by the seller that are considered both reasonable and customary for the market in which the property is located; and (4) the adherence to ethical standards of conduct by all parties involved in the HECM short sale transaction, including the borrowers (or the estate), mortgagees and appraisers..

Any questions regarding this Mortgagee Letter may be directed to HUD's National Servicing Center at 1-888-297-8685 or hsg-lossmit@hud.gov. Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

The clarifications in this Mortgagee Letter are effective immediately.

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner